Remarks

Claims 1-8, 10-28 and 30-42 are pending in the application. Claims 1, 21, 41 and 42 are independent.

Claims 1, 8 and 26 were objected to for minor informalities.

Claims1-8, 10-28 and 30-42 were rejected.

Claims 1 and 41, 8 and 26 are amended herein to rectify the minor informalities noted.

No new matter is added by way of the above claim amendments.

Claim Rejections 35 USC 103

The Examiner rejected claims 1-8, 10-28 and 30-42 under 35 U.S.C. 103(a) as being obvious over Mehta (US 2002/0131404) in view of Kjellberg and Krantz. The terminology of the Office Action with regard to the cited references is adopted herein. Applicant respectfully traverses the rejections in view of the arguments herein.

Claim 1 as amended herein recites: *A method for providing customized provisioning of an application on a runtime environment of a terminal, the application including content having at least one content type, the method comprising the steps of:*

obtaining the content by the runtime environment;

for each content type, obtaining by the runtime environment a set of provisioning instructions related to the content type, the provisioning instructions being customized by distributed provisioning control through the provisioning

instructions for different versions of the application, the provisioning instructions embedded within content of the application for specifying a provisioning application program interface (API) set for provisioning the content of the application; and

executing by the runtime environment the provisioning instructions for employing the API set, by a script interpreter, to provision the application according to the specified content type.

None of the cited references, including Mehta, disclose the claimed feature of *"the provisioning instructions embedded within content of the application for specifying a provisioning application program interface (API) set for provisioning the content of the application"*

The Examiner asserts, at page 4 of the Office Action, that Mehta discloses this feature, citing paragraphs [0010], [0064], [0090], [0092], [0097], [0113] and [0114] of Mehta.

Based on careful review of of Mehta, Applicant respectfully traverses the Examiner's characterization of Mehta as disclosing the above feature as claimed in claim 1.

Mehta discloses computer- and network-based methods and systems for maintaining and provisioning wireless applications. Example embodiments provide a Mobile Application System (MAS), which is a collection of interoperating server components that work individually and together in a secure fashion to provide applications and resources to mobile subscriber devices, such as wireless devices. Application, resources, and other content is provisioned and verified by the MAS for authorized access by the subscriber and for compatibility with a requesting subscriber device, consistent with the security and billing policies of the carrier and/ or system administrators of the MAS. In this manner,

applications, resources, and other content can be downloaded to end-user devices with greater assurance of their ability to successfully execute.

In one aspect of Mehta, content is provisioned by one or more of the steps of inspecting the content for malicious or prohibited code, optimizing the content for smaller size and greater speed, implementation of code for security, billing, and other carrier policies, and packaging of code for the intended subscriber device.

Again with reference to Mehta, additional security is provided through application filters that are used to prevent applications that contain designated API from being downloaded to a subscriber's device.

It is evident that in Mehta, designated APIs are tracked in order to prevent associated applications from being downloaded. The application filters of Mehta are created by specifying APIs, or API sets, that are not permitted to be called by an application being targeted for provisioning on a particular end-user device. As provided in Mehta at paragraph [0014] (in part as follows):

> **[0114]** The Administration Website **802** enables system administrators to implement various security techniques and policies that supplement and complement the verification and inspection processes provided by the Provisioning and Deployment Managers. One such technique is the ability to define application filters, as discussed, which are used to specify API that should not be called by an application using a particular device or other target. Such restricted calls and structures can be identified during the application provisioning process in response to a subscriber request to download and upon submission of an application by content providers to help ensure that a subscriber will not load code that is inappropriate for a particular device. Another security tech-

In other words, inappropriate, incompatible or prohibited applications are identified based on API filtering in Mehta.

However, Mehta neither contemplates nor discloses a feature of "*"the provisioning instructions embedded within content of the application for specifying a provisioning application program interface (API) set for provisioning the content of the application".*

In contrast, Applicant's specification as filed, at page 16 describes this feature:

> Provisioning Configuration Data
>
> Provisioning Data consists of an arbitrary set of properties, which can be referred to as an embedded or otherwise coupled version of the provisioning instructions 124, that may be specified in the content of the application 107. This approach to application 107 intelligence relies on the fact that the Framework 206 recognizes the set of possible properties and modifies the provisioning process to suit customized settings. It is recognized that the provisioning data could be designed as external to the content of the application 107.

Having the provisioning instructions coupled to, or embedded in, the application, as claimed in claim 1 allows the same application to be provisioned in a manner commensurate with the different hardware capabilities of different client devices, doing so to take fully exploit device–specific capabilities such as screen display resolution, processor speed, and memory capacity, among other device-specific capabilities, even if the different devices employ the same operating system.

Thus neither Mehta, nor any of the other cited references, disclose the claimed feature of *"the provisioning instructions embedded within content of the application for specifying a provisioning application program interface (API) set for provisioning the content of the application".*

The Examiner may not properly reject a claim under section 103(a) unless all the elements of the claim are disclosed. The Supreme Court reaffirmed in *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 2007 WL 1237837, that the need to demonstrate the presence of all claim limitations in the prior art, when the legal

theory is based upon obviousness due to a combination of prior art references, has not been obviated. In the event that the cited prior art references fail to disclose or suggest all of the elements recited in the claim, then combining elements from the references would not yield the claimed subject matter, regardless of the extent of any teaching, suggestion or motivation.

For at least the above reason, Applicant respectfully submits that claim 1 Is patentable.

Independent claims 21, 41 and 42 are similar in scope to claim 1, and a similar argument applies. Accordingly, Applicant respectfully submits that the rejection of these claims be withdrawn for at least the same reasons.

Since the remaining dependent claims depend from one of the above noted independent claims, Applicant submits that the rejection of these claims be withdrawn for at least the same reasons.

Based on the foregoing reasons, the Applicant respectfully submits that the claimed invention is patentable over the prior art. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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